

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**JOSE LUIS FONSECA RAMIREZ,**

**Defendant.**

**CASE NO. 8:12CR186**

## TENTATIVE FINDINGS

The Court has received the Revised Modified Presentence Investigation Report and Addendum (“PSR”). The Defendant has not objected to the PSR. The government adopted the PSR (Filing No. 131). The Defendant has filed a Motion for Downward Departure and Variance and supporting brief (Filing Nos. 132 and 133). Defense counsel expressed objections to the Probation Office with respect to Paragraphs 35 through 37 of the PSR, and such objections are addressed in the PSR Addendum. Defense counsel did not pursue any objections pursuant to the Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

Accordingly,

IT IS ORDERED:

1. The Court intends to adopt the PSR at the time of sentencing;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the

submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this Order, these tentative findings are final;

4. The Defendant's Motion for Downward Departure and Variance (Filing No. 132) will be heard at sentencing; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 26<sup>th</sup> day of November, 2013.

BY THE COURT:

s/Laurie Smith Camp  
Chief United States District Judge